



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/032,020

12/17/2001

Greg Hecht

50588/365

5786

32641

7590

12/15/2006

DIGEO, INC C/O STOEL RIVES LLP
201 SOUTH MAIN STREET, SUITE 1100
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

EXAMINER

JONES III, CLYDE H

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 12/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/032,020

Applicant(s)

HECHT ET AL.

Examiner

Clyde H. Jones III

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed in the 10/03/2006 Remarks have been fully considered but they are not persuasive.

Regarding claim 1 (and the corresponding sections of claim 14 and 23) the applicant argues that Proehl fails to teach or suggest a plurality of nodes to retrieve data from one or more of said databases and to provide said data to said one or more applications in a consistent manner and more specifically to "provide the data to said one or more applications in a consistent manner" [Remarks page 7 (10)], in which the applicant disagrees with the examiner's interpretation of in consistent manner [Remarks page 7, lines 24-28]. The applicant cites sections from the paragraph that disclose data being normally incompatible is provided to applications [Remarks, last two lines on page 7-line 1, page 8] and that Proehl does not teach how data is provided via software nodes or other objects [Remarks page 9, lines 15-21] and that a Proehl does not teach a node is an intermediate between the applications and the databases [Remarks page 9, last 5 lines].

The examiner respectfully disagrees because Proehl teaches the data from the databases/servers- 42a-42m, 44, 48 (Proehl – fig. 3) is provided to the EPG, Web browsing, or TV applications, etc. via the GUI application(s) -50,62 on the nodes/network devices (col. 2, lines 63-col. 3, line 10 and col. 10, lines 28-29) and furthermore the data is provided in a consistent manner because the data is provided to the GUI as needed (col. 5, lines 16-35; in which the data is provided in a

Art Unit: 2623

reproducible/consistent manner from the database because it is a process) and regardless of the source (col. 6, lines 49-51), i.e., the GUI is provided with multiple applications' data as needed/consistently (col. 5, lines 21-24) for displaying to the user. The examiner reasonably interprets consistent to mean reproducible as needed because there is nothing in the claim language that prohibits such a broad interpretation. In response to the applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., in a consistent manner meaning data being normally incompatible is provided to applications, data is provided via software nodes or other objects, and a node is an intermediate between the applications and the databases) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Specifically regarding claims 14 and 23 the applicant argues that Proehl fails to teach or suggest the first and second data interface objects/type of nodes wherein said data is provided to the applications from both said first interface object/type of node and said second data interface object/type of node in a consistent manner. The examiner interprets first and second data interface objects to be nodes 44, 48, 52a-52n because they are objects on the network – fig. 3 that interface their respective data (e.g., CD players type nodes provide CD info, Web service type server/nodes provide service info, etc.) in a consistent manner as discussed above. The applicant's arguments are not persuasive.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Proehl et al. (US 6,690,391 B1).

Regarding claims 1 and 14, Proehl teaches an interface for linking one or more applications (options/applications) to a plurality of databases (42a-42n; 48; 52a-52n – fig. 3) comprising:

a plurality of nodes 44, 48, 52a-52n (remote/local servers/network devices) to retrieve data from one or more the databases and to provide the data to the one or more applications (options/applications) in a consistent (shown through the same GUI/application interface 50 & 62 – fig. 3) manner (fig. 7, 8, 12, 16, 18; col. 5, lines 43-44;; col. 9, lines 21-28; col. 13, lines 56-58; Proehl teaches the data from the databases/servers- 42a-42m, 44, 48 – fig. 3 is provided to the EPG, Web browsing, or TV applications, etc. via the GUI application(s) -50,62 on the nodes/network devices [col. 2, lines 63-col. 3, line 10 and col. 10, lines 28-29] and furthermore the data is

Art Unit: 2623

provided in a consistent manner because the data is provided to the GUI as needed [col. 5, lines 16-35] and regardless of the source [col. 6, lines 49-51], i.e., the GUI is provided with multiple applications' data as needed/consistently [col. 5, lines 21-24] for displaying to the user; *The examiner reasonably interprets consistent to mean as needed because there is nothing in the claim language that prohibits such a broad interpretation*); and

one or more services (EPG, shopping, CD, DVD, VCR, multimedia, commerce, etc., services) to perform predefined actions (e.g., listings, purchasing, media playback control, etc.) associated with the nodes (col. 13, lines 56-58; col. 11, lines 15-18; col. 10, lines 28-32; col. 9, lines 24-28; col. 6, lines 49-55; col. 5, lines 43-55; col. 4, lines 22-24),

wherein at least one of the nodes is associated with several different services (servers 44, 48, and 52a-52n are associated with several different services such as the services provided by 49a-49i, 42a-42m, etc. – fig. 3) and at least one of the services is associated with several different nodes (each of the above mentioned examples of services/applications may be associated with the several different servers 44, 48, and/or 52a-52n).

Regarding claims 2, 3, 15, 16, 21, 24 Proehl teaches wherein one of the applications is a GUI/API comprising a menu navigation hierarchy for navigating a through a plurality of multimedia content (available multimedia content, e.g., movies, CDs, etc.) and associated information (information about the application or status of the

Art Unit: 2623

selected application) (50, 62 – fig. 3; col. 3, lines 1-30; col. 6, lines 28-30 & liens 49-58; col. 7, lines 3-4; col. 5, lines 65-col. 6, line 7).

Regarding claims 4 and 5, Proehl teaches an individual node is associated with each menu item in the menu item hierarchy (the individual servers provide the guide data for the menu items displayed; col. 5, lines 21-25, 31-35, 40-50; col. 13, lines 53-58; col. 11, lines 15-17; fig. 5; fig. 10).

Regarding claim 6, Proehl teaches certain menu items in the hierarchy have sub-menu items associated therewith (col. 3, lines 30-35; col. 7, lines 42-46), and wherein each parent node (server 44, 48, and 52a) associated with the certain menu items identify (acknowledges the) children nodes (42a-42n, 52b-52n) associated with each of the sub-menu items when the certain menu items are selected by a user (col. 5, lines 43-50; col. 5, lines 33-36, lines 62-67; col. 12, lines 52-62; in which sub-menu items e.g., purchasing a movie, are selected and the server/database where the data is stored, e.g., 42 – fig. 3, provides the associated information to the user via parent servers, e.g., 44, 48 and/or 52a).

Regarding claims 7, 8, and 20, Proehl teaches a node/server retrieves data from the first type of database that is an EPG database (42m – fig. 3; col. 5, lines 32-35) and the second type is a CD database (42a and/or 52b and/or 49a – fig. 3; col. 5, lines 43-54; col. 6, lines 51-54; col. 12, lines 59-61).

Regarding claim 9, Proehl teaches an EPG database is transmitted over a live EPG feed from a cable provider (col. 5, lines 33-35, lines 43-47; col. 9, lines 65-67; in which a cable TV data source, e.g., a cable provider, provides the EPG data in the live feed using the VBI or a digital side band for example).

Regarding claim 10, Proehl teaches the service is a "record program (EPG records/guides to programming) service associated with all nodes containing information related to live multimedia broadcasts (col. 9, lines 63-67; col. 12, lines 41-54; col. 4, lines 23-24; col. 5, lines 16-21).

Regarding claim 11, Proehl teaches one service is a "tune to channel" service associated with all nodes containing information related to live multimedia broadcasts (servers with information related to a live broadcast, e.g., soundtrack purchase or additional information, etc., are accessed for a channel that is tuned (col. 9, lines 63-67; col. 12, lines 41-54).

Regarding claim 12, Proehl teaches a list of services associated with each individual node (e.g., music downloading, shopping, TV program/EPG service, etc.) may be generated by highlighting the menu item associated with the node (the menu items corresponding data/information comes from the respective server) and generating an "action" command (e.g., purchase something, display additional information, etc.) (col.

Art Unit: 2623

3, lines 45-46; col. 6, lines 32-34; col. 9, lines 21-28; col. 11, lines 23-25; col. 12, lines 43-54).

Regarding claim 13, Proehl teaches one of the nodes is configured to retrieve Internet data (col. 5, lines 29-36).

Regarding claim 17, Proehl teaches a first service is associated with both the first and second data interface objects (EPG service is retrieved from the associated servers/data interface objects 44 and 48 – fig. 3; col. 5, lines 31-36).

Regarding claim 18, Proehl teaches a second service associated with only one of the first and second data interface objects (e.g., MP3 playback service 49i on server/data interface object 48 – fig. 3; col. 5, lines 25-29).

Regarding claim 19, Proehl teaches the first service is a search service (the EPG service enables searching/navigating of information via the GUI) allowing a user to search for data related to the first and/or second data object (col. 5, lines 32-36, lines 51-53; col. 4, lines 21-24; col. 3, lines 1-9).

Regarding claim 22 it is rejected with respect to claims 3, 4, and 5 as discussed above.

Claim 23 is rejected with respect to claims 1 and 7, as discussed above.

Regarding claims 25 and 26, Proehl teaches a service layer comprised of a plurality of service objects 42 (fig. 3) adapted to be performed on the nodes/server 44, wherein a single service object may perform actions for a plurality of nodes/servers 44, 48, and 52a.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clyde H. Jones III whose telephone number is 571-272-5946. The examiner can normally be reached on 9-5:30 p.

Art Unit: 2623

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CJ


SCOTT E. BELIVEAU
PRIMARY PATENT EXAMINER